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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,054	11/03/2003	Louis A. Lippincott	ITL.1709US (P17678)	5501
21906 7590 02/24/2009 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER THOMAS, ERIC M	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 02/24/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/701,054	<b>Applicant(s)</b> LIPPINCOTT, LOUIS A.	
	<b>Examiner</b> Eric M. Thomas	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/3/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In view of the arguments filed on 9/3/08, PROSECUTION IS HEREBY REOPENED. As set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**3. Claims 25 – 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon et al. (U.S. 2003/0190940).**

Regarding claims 25 and 30, Gordon provides an electronic game that allows at least two players to act independently and cooperatively at times at different points in the game in order to complete the game, (abstract), wherein the electronic game is simultaneously played by two players at a single computer, (par. 0019), which is viewed by the examiner as providing at least one media center to provide electronic game data for one game to at least two players who play the game at the same time in concert. Gordon further discloses two separately controllable characters where a single computer monitor is controlled to show separate screens when the characters are in different locations (par. 0020). This is viewed by the examiner as separating the game data so that separate game images may be provided for each of the game players who play the same game and such that the game images for each of the players may be different in at least some respects. Gordon further discloses that a suitable input device such as a gamepad controller that may be used by both players to control the characters (par. 0042). This is viewed by the examiner as the system being capable of receiving game control commands from the players and identifying which commands originate with of each of the players.

Regarding claims 26 and 31, Gordon provides an electronic game that discloses two separately controllable characters being controlled by the players (par. 0020). The examiner views this as the game including associating game data with tags, wherein the tags are indicative of a different player.

Regarding claims 27, 28, 32, and 33, as stated above, Gordon discloses that the gaming device may include an input device such as a gamepad controller to be used by the players to control the separately controllable characters (par. 0042). This is viewed by the examiner as the game system providing controls which each game player may utilize to provide input commands to the media center and append tags that allow game control commands from one player to be distinguished by the game system from game control commands received from the other player.

Regarding claim 35, Gordon provides an electronic game that may be controlled to provide two separate pictures with one of the separately controllable characters working in one environment, and the second working in another environment (par. 0027). This is viewed by the examiner as the system having being able detect, steer, and route the video game data with a particular tag to a particular buffer based on the detected tag.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 29 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon et al. (U.S. 2003/0190940) in view of McDonald et al. (U.S. 6,301,306).**

Regarding claims 29 and 34, Gordon provides a game system that includes input devices to be used by the players to control the separately controllable characters, but

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Gordon is silent on the issue of input devices having wireless capability. In a related art, however, McDonald provides an apparatus for generating a wireless data communication link that teaches of operating a video game with a wireless controller that may use infrared waves to communicate with a video game console (col. 1, lines 45 – 49). Therefore, one would be motivated to use wireless controllers with the art disclosed by Gordon in order to wirelessly communicate with the game and enable game play to be less restrictive thus allowing players to sit virtually anywhere in the room and to eliminate the issue of wire of wired controlled becoming tangled.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 25 - 35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Supervisory Patent Examiner, Art Unit 3714